IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR. JUSTICE G. BIKSHAPATHY

AND

THE HON'BLE MR. JUSTICE P.S.NARAYANA

WRIT PETITION NO : 22090 of 2004

Between:

P.M. Vijayaseeludu, S/o. Mathew,

Occ: Welder Special Grade, Office of the

Executive Engineer, Divn.No.1, Construction Circle,

I&CAD. Huzurabad, Karimnagar District,

R/o. Parkal, Karimnagar District.

..... PETITIONER

AND

1. The Government of A.P., rep., by its Secretary,

Panchayat Raj Department,

A.P. Secretariat, Hyderabad.

2. The District Collector,

Panchayat Raj Wing, Karimnagar.

3. The Executive Engineer, Division No.1,

Construction Circle, I&CAD,

Huzurabad, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondents and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Certiorari, and quash the (i) order dated 25.10.2004 in O.A.No.191 of 2002 with M.A.No.5075 of 2002, and (ii) in confirming the proceedings Rc.No.A3/2605/2001-PTS, dated 30.12.2001 issued by the 2nd respondent in appointing me by deployment as Panchayat Secretary by posting at Gram Panchayat, Divikonda of Pegadapally Mandal in pursuance of G.O.Ms.No.369 PR&RD (MDC-II) Department dated 12.12.2001 as illegal, perverse, unjust, untenable in law also on facts, contrary to rules and GO issued by the Government from time to time and also in violation of Articles 14 and 21 of the Constitution of India.

Counsel for the Petitioner: MR.A.K. JAYAPRAKASH RAO

Counsel for the Respondents. GP FOR SERVICES-II

The Court made the following:

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ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 25.10.2004, passed by the A.P. Administrative Tribunal in O.A.No.191 of 2002 with M.A.No.5075 of 2002.

2. The petitioner was initially appointed as a Welder Special Grade in A.P. State Construction Corporation Limited (for short "the Corporation") on 01.11.1977. On closure of the Corporation, the petitioner was absorbed into Government service on 01.11.1987 as Work Inspector and he was discharging the duties. While so, the Government issued G.O.Ms.No.369, dated 12.12.2001, creating the post of Panchayat Secretary and accordingly, the petitioner was asked to work as Panchayat Secretary in the newly created post. But, the petitioner declined to accept the post on the ground that he was not eligible to hold the said post as he studied S.S.C., but not qualified. Since the authorities did not consider his request, he filed O.A.

3. The Tribunal granted interim direction to continue the petitioner as Work Inspector, but ultimately the O.A. was dismissed by an order, dated 25.10.2004, against which the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that the petitioner was not qualified in S.S.C., and merely because there is an entry in the service record as S.S.C., the authorities ought not to have posted him as Panchayat Secretary as the very appointment was illegal, and therefore, the Tribunal ought to have taken this point into consideration and allow the O.A. filed by the applicant.

5. Learned Government Pleader submits that since there was an entry in the service register to the effect that the petitioner's qualification was S.S.C., it was deemed by the authorities that the petitioner has qualified S.S.C. and he has been posed as Panchayat Secretary. By virtue of the interim order passed by the Tribunal he is continuing as work inspector.

6. Now it is brought to our notice that the petitioner is going to be retired in November 2005. Under those circumstances and in view of the fact that the petitioner did not possess the requisite qualification for the appointment to the post of Panchayat Secretary, we direct the respondents to continue the petitioner as work inspector in the office of the 3rd respondent.

7. With the direction indicated above, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 08.04.2005

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To

1. The Secretary, Government of A.P.,

Panchayat Raj Department,

A.P. Secretariat, Hyderabad.

2. The District Collector,

Panchayat Raj Wing, Karimnagar.

3. The Executive Engineer, Division No.1,

Construction Circle, I&CAD,

Huzurabad, Karimnagar District.

4. 2 CCs to the GP for Panchayat Raj and Rural Development, High Court buildings, Hyderabad (OUT)

5. 2 CCs to the GP for Services-II, High Court buildings, Hyderabad (OUT)

6. 2CD copies